



## 40 CFR Part 1600

RIN 3301-AA01

### Organization and Functions of the Chemical Safety and Hazard Investigation Board

**AGENCY:** United States Chemical Safety and Hazard Investigation Board.

**ACTION:** Final rule.

**SUMMARY:** The revisions to the rule amend the organization, operation, quorum and voting, and office location regulations of the United States Chemical Safety and Hazard Investigation Board (CSB). The amendments address changes to agency practices in organizational structure, quorum and voting requirements, and office location. The amendments incorporate CSB Board Orders. Board Orders allow the CSB to keep current with changes in organizational operations, like when there is a singular Board member.

**DATES:** Effective June 2, 2023.

**FOR FURTHER INFORMATION CONTACT:** Tamara Qureshi, Assistant General Counsel, at either 202.763.8240 or [tamara.qureshi@csb.gov](mailto:tamara.qureshi@csb.gov).

**SUPPLEMENTARY INFORMATION:** The Chemical Safety and Hazard Investigation Board's (CSB) revisions to 40 CFR part 1600 will align with the agency's current organizational structure, Board Orders, practices, and office location. The changes to § 1600.2, *Organization*, mirror CSB's current management structure. The CSB's Board Orders memorialize a portion of the CSB's internal policies and procedures. The addition of paragraph (e) to § 1600.4, *Operation*, incorporates the agency's current practice of using Board Orders and other internal policies and procedures in its operation. The additional language in § 1600.5, *Quorum and voting requirements*, integrates the CSB's Board Orders into the regulations to help ensure that the regulations remain current. Furthermore, the regulation now addresses situations in which the CSB has a single Chairperson or Board member. Additionally, the regulation establishes the CSB's Board as the arbiter of internal disputes pertaining to calendaring of notation items. The

regulation also removes the CSB's internal agenda requirement to discuss the agency's progress on its Action Plan at its quarterly meetings to match current agency practice. Finally, in § 1600.6, *Office location*, the CSB updated its current office location.

The Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(A), provides that when regulations involve matters of agency organization, procedure, or practice, the agency may publish regulations in final form without notice and comment. These revisions fall under this part of the APA.

**Statutory Authority:** 5 U.S.C. 301, 552(a)(1); 42 U.S.C. 7412(r)(6)(N).

### **Regulatory Impact**

*Administrative Procedure Act:* In promulgating this rule, the CSB finds that notice and public comment are not necessary. Section 553(b)(3)(A) of Title 5, United States Code, provides that when regulations involve matters of agency organization, procedure, or practice, the agency may publish regulations in final form. In addition, the CSB finds, in accordance with 5 U.S.C. 553(d), that a delayed effective date is unnecessary. Accordingly, these regulations are effective upon publication.

*Small Business Regulatory Enforcement Fairness Act:* This regulation is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. Because this regulation involves internal agency procedures and quarterly business meetings, this regulation: a. Does not have an annual effect on the economy of \$100 million or more. b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, local government agencies or geographic regions. c. Does not have a significant adverse effect on competition, employment, investment, productivity, innovation or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

*Regulatory Flexibility Act:* The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a rule that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis

describing the regulation's impact on such small entities. This analysis need not be undertaken if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). The CSB has considered the impact of this rule under the Regulatory Flexibility Act, and certifies that a final rule will not have a significant economic impact on a substantial number of small entities.

*Congressional Review Act:* The CSB reviewed the rule to determine it would be a major rule under 5 U.S.C. 801(a)(1)(A). This rule is not a major rule and not subject to reporting to Congress.

*Paperwork Reduction Act:* The CSB reviewed this rule to determine whether it involves issues that would subject it to the Paperwork Reduction Act (PRA). The CSB has determined that that the rule does not require a “collection of information” under the PRA.

*Unfunded Mandates Reform Act of 1995:* The rule does not require the preparation of an assessment statement in accordance with the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531. This rule does not include a Federal mandate that may result in the annual expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of more than the annual threshold established by the Act (\$128 million in 2006, adjusted annually for inflation).

#### **List of Subjects in 40 CFR Part 1600**

Administrative practice and procedure, Organization and functions (Government agencies).

Dated: May 30, 2023.

**Stephen Owens,**

*Chairperson.*

Accordingly, for the reasons set forth in the preamble, the Chemical Safety and Hazard

Investigation Board amends 40 CFR part 1600 as follows:

#### **PART 1600 - ORGANIZATION AND FUNCTIONS OF THE CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD**

1. The authority citation for part 1600 continues to read as follows:

**Authority:** 5 U.S.C. 301, 552(a)(1); 42 U.S.C. 7412(r)(6)(N).

2. Amend § 1600.2 by revising paragraph (b) to read as follows.

**§ 1600.2 Organization.**

\* \* \* \* \*

(b) The CSB's staff is comprised of the following administrative units and such other units as established by the CSB Board:

- (1) The Office of Administration;
- (2) The Office of Investigations and Recommendations;
- (3) The Office of the General Counsel;
- (4) The Office of Financial Operations; and
- (5) The Office of Equal Employment Opportunity.

\* \* \* \* \*

3. Amend § 1600.4 by adding paragraph (e) to read as follows.

**§ 1600.4 Operation.**

\* \* \* \* \*

(e) Board Orders and other policies and procedures adopted by the Board.

4. Amend § 1600.5 by:

- a. Revising paragraphs (a), (b), and (c)(1)(i) and (ii); and
- b. Removing paragraph (c)(1)(iii).

The revisions read as follows:

**§ 1600.5 Quorum and voting requirements.**

(a) *Quorum requirements.* A quorum of the Board for the transaction of business shall consist of three Members; provided, however, that if the number of Board Members in office is fewer than three, a quorum shall consist of the number of Members in Office, subject to the limitations on the authority of a single-Member Board set forth in this section and in Board Orders adopted by the Board; and provided further that on any matter of business as to which

the number of Members in office, minus the number of Members who have disqualified themselves from consideration of such matter is two, two Members shall constitute a quorum for purposes of such matter. Once a quorum is constituted, a simple majority of voting Members is required to approve an item of the Board's business. A tie vote results in no action. If the Board consists of only a single Member (whether the Chairperson or another Member), that single Member may not transact Board business or take any action that requires approval by the Board, except as provided in Board Orders adopted by the Board.

(b) *Voting.* The Board votes on items of business in meetings conducted pursuant to the Government in the Sunshine Act. Alternatively, whenever a Member of the Board is of the opinion that joint deliberation among the members of the Board upon any matter at a meeting is unnecessary in light of the nature of the matter, impracticable, or would impede the orderly disposition of agency business, such matter may be disposed of by employing notation voting procedures. A written notation of the vote of each participating Board member shall be recorded by the General Counsel who shall retain it in the records of the Board. If a Board member votes to calendar a notation item in accordance with applicable Board Orders, the Board must consider the calendared notation item at a public meeting of the Board within 90 days of the date on which the item is calendared. This section does not permit a notation item to be calendared other than as provided in applicable Board Orders. A notation vote to schedule a public meeting or a special meeting may not be calendared. The Chairperson shall add any calendared notation item to the agenda for the next CSB public meeting if one is to occur within 90 days or schedule a special meeting to consider any calendared notation item no later than 90 days from the calendar action. Any disagreement about whether a notation item has been calendared effectively in accordance with applicable Board Orders shall be decided by the Board.

(c) \* \* \*

(1) \* \* \*

- (i) Consideration and vote on any notation items calendared since the date of the last public meeting; and
- (ii) A review by the Board of the schedule for completion of all open investigations, studies, and other important work of the Board.

\* \* \* \* \*

5. Revise § 1600.6 to read as follows.

**§ 1600.6 Office location.**

The principal offices of the Chemical Safety and Hazard Investigation Board are located at 1750 Pennsylvania Avenue NW, Suite 910, Washington, DC 20006.

[FR Doc. 2023-11802 Filed: 6/1/2023 8:45 am; Publication Date: 6/2/2023]